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though the non-user extended for a period of twenty-one years, during which time a parallel location was used by the railroad, this was not sufficient to show abandonment.

EVIDENCE.—PHYSICAL EXAMINATION OF PLAINTIFF IN PERSONAL INJURY CASES.—The plaintiff sued for personal injuries received while in the employ of the defendant. At the trial he voluntarily exhibited his injured leg to the jury, whereupon the defendant requested that its physician be allowed to examine the injured member. This the court refused to do. *Held*, not to be error, that the mere exhibit of the plaintiff's person to the jury did not give the defendant the right to compel the plaintiff to submit to an examination of his leg. *Wheeler v. Chicago & W. I. R. Co.* (Ill. 1915) 108 N. E. 330.

Had the plaintiff not exhibited his injured leg to the jury the refusal of the court to compel him to submit to a physical examination would have presented a question upon which the decisions are in hopeless conflict. The weight of authority allows such an examination on the ground that substantial justice requires it, and its refusal encourages perjury and assists in fraudulent and unjust recoveries. *Wanek v. Winona*, 78 Minn. 98; *Graves v. Battle Creek*, 95 Mich. 266; *Fullerton v. Fordyce*, 121 Mo. 1; *Savannah Ry. Co. v. Wainwright*, 99 Ga. 255; *Alabama Ry. Co. v. Hill*, 90 Ala. 71; *White v. Milwaukee Ry. Co.*, 61 Wis. 536; *Lane v. Spokane Falls Ry. Co.*, 21 Wash. 119. The following refuse to compel an examination on the ground of the inviolability and sacredness of one's person, and his right to possess and control the same "free from all restraint or interference of others." *Union Pacific Ry. Co. v. Botsford*, 141 U. S. 250; *Stack v. N. Y., N. H. & H. R. Ry. Co.*, 177 Mass. 155; *Parker v. Enslow*, 102 Ill. 272; *Peoria Ry. Co. v. Rice*, 144 Ill. 227; *McQuigan v. Delaware Ry. Co.*, 129 N. Y. 50; *International & Great Northern Ry. Co. v. Butcher*, (Tex. 1904) 81 S. W. 819; *Galveston Ry. Co. v. Sherwood*, (Tex. 1902) 67 S. W. 776. For a full discussion and review of cases on this point see 1 MICH. LAW REV. 193, 277. But where, as in the principal case, the plaintiff voluntarily exhibits his person to the jury it would seem that he thereby waives his privilege to object to a physical examination, and evidence thus put into the case should, like other exhibits in evidence, be open to attack and examination by the opponent. It has been so held where the right to compel a physical examination exists. *Haynes v. Trenton*, 123 Mo. 326; *Louisville Ry. Co. v. Simpson*, 111 Ky. 754. Also where the court is powerless in the first instance to compel the physical examination. *Winner v. Lathrop*, 22 N. Y. Supp. 516; *Houston & Texas Ry. Co. v. Anglin*, (Tex. 1905) 89 S. W. 966; *Chicago, R. I. & T. Ry. Co. v. Langston*, 19 Tex. Civ. App. 568. The Illinois court in the principal case, without citing any authority for its position, refuses to take this step, but takes the view that since the plaintiff was willing to be examined by a physician who had diagnosed and treated him for a fracture of the kneecap for some time after the injury, the refusal of the trial court to grant the defendant's request was not erroneous.

EVIDENCE.—EXPERT TESTIMONY BASED ON LAW OF MATHEMATICAL PROBABILITIES.—Defendant was tried for forging an affidavit by inserting therein